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BRAZILIAN DELEGATION FOR DISARMAMENT AND HUMAN RIGHTS

XLV SESSION OF THE COMMISSION ON HUMAN RIGHTS

ITEMS 5 AND 12

STATEMENT BY THE REPRESENTATIVE OF BRAZIL,

AMBASSADOR MARCOS CASTRIOTO DE AZAMBUJA

Geneva, 6 March 1989

Mr. Chairman,

It is an old device of rhetorical skill to fill a speech with questions in order to make it appear worthy of the hearer's attention. Capture the audience's ear by enticing its curiosity, the experts suggest - a piece of advice which is by no means out of place at this point of our debates. Having that in mind, it occurred to me that it might perhaps not be inappropriate, before commenting more assertively on the substance of the item under consideration, to share my thoughts with other delegations in the form of a few question marks, the answers to which I believe are essential for the current and future work of the Commission on Human Rights on the problem of "violations of human rights in any part of the world".

2. Firstly, are the obstacles and difficulties faced by this Commission in dealing with alleged human rights violations in specific countries an entirely inevitable consequence of the very nature of the subject-matter, regardless of the options we make? Or can those obstacles and difficulties be avoided or somehow side-stepped by our choosing options more carefully?

3. Secondly, assuming that the latter alternative could perhaps be the case, what are the means at our disposal in order to minimize or reduce obstacles and difficulties?

4. Thirdly, and conversely, what are the misguided

steps we ought to avoid should we decide that where we get to in the future depends on how we stride at present?

5. I believe that there is no particular merit in realizing that no short answer can be given to such questions, which I am sure not to be the first one to raise. I suggest, however, that the effort to address these problems would greatly benefit from our adherence to some guiding principles which could provide — and have been providing to some extent — more than a glimpse of a star to our somewhat wandering bark.

6. To begin with, I am sure that all member-states and observers are acquainted with the position which has been consistently maintained by the Brazilian Government on the dangers and the undesirability of mixing politics and human rights concerns. As we have stated on many previous occasions, we hold strongly to the view that the work of this Commission must be based exclusively on ethic and humanitarian grounds and that any political overtones are most unwelcome. We are aware that any intergovernmental body dealing with questions so important is, in a sense, of a political nature. This, however, should not lead us so far as to forget that too much politics can be hazardous to the credibility of the Commission, hence to the effectiveness of its work.

7. Effectiveness, at this Commission, rests ultimately on the cooperation of Governments with the United Nations. The willingness of any Government to cooperate must

be encouraged and must, under all circumstances, be returned with a fair, objective and constructive approach on our part. Moreover, as far as credibility is concerned, it is not enough that the Commission act consistently in a fair and constructive manner. Still it is imperative that it is perceived as such by Governments and the public at large.

8. No doubt, the factors which influence the perception of our work by others are of great complexity and, here again, I would not venture to advance any one-line formula. I thus limit myself to underlining what appears to me to be a crucial aspect of the issues at stake.

9. I refer to the need for well-established and transparent procedures with which to bring the universal mandate of this Commission to work effectively and even-handedly in specific cases. When one thinks in terms of concrete results, any general rule is precisely as good, or as bad, as the mechanisms through which it is applied. The gap between the sweeping universality of the Commission's mandate, which is evident in the very title of item 12, and its accomplishment in concrete cases must be bridged by the observance of a minimum of strict procedures. To my mind, there is no better way of avoiding arbitrariness or — which is no less ruinous to our goals — the impression that arbitrariness exists. It is hightime the Commisssion on Human Rights gave serious thought to this question, as regards both the confidential and the public procedure, not

to mention the relationship between the two. Either we are satisfied with the mechanisms available — and in this case we should stick to them — or we are not — and then we should not hesitate to establish new ones.

10. I do not make these comments out of any bureaucratic fear of innovation. Cases differ and situations do evolve. The Commission must be able, at all events, to adapt its action as it may seem advisable. Mechanisms and procedure, however, must be handled with great care. What is required is a careful balance between the need to adapt and the need to preserve the indispensable parameters of our activities.

Mr. Chairman,

11. My delegation has read with great interest the various reports considered by the Commission under items 5 and 12. We wish to express our thanks to the Special Rapporteurs as well as our appreciation for the high quality of their work.

12. The report by Mr. Felix Ermacora on the situation of human rights in Afghanistan (document E/CN.4/1989/24) describes a situation which, in his own words, "remains a matter of deep concern". We believe it is very positive that the Special Rapporteur has been able to visit the country twice during the last twelve months and we share his concerns

over the enormous human suffering that results from the conflict in that country. The Brazilian Government has expressed on different occasions its support for the efforts to achieve a peaceful settlement of the situation in Afghanistan and we think the recommendations made by the Special Rapporteur can be instrumental to this effect.

13. Mr. Volio Jiménez' report on the situation in Chile (document E/CN.4/1989/7) indicates that the Special Rapporteur has received considerable cooperation from the Government and that, despite the persistence of some "negative facts", there has been "important progress" both in the human rights situation and in the normalization of Chilean democratic institutions. It is well known that Chile is a country to which Brazilians feel particularly linked through friendship and long-standing ties of cooperation. This feeling of friendship and proximity is what moves my delegation to express its hopes that the draft resolution to be considered on this question will, thanks to an objective and constructive wording, merit the consensus of member-states.

14. As regards the situation in El Salvador, which is dealt with in the report presented by Mr. Pastor Ridruejo (document E/CN.4/1989/23), mention must be made of the cooperation extended by the authorities to the Commission on Human Rights and of the fact, indicated by the Special Representative, that the Government of President Duarte "continues to be committed to a policy of respect for human

rights". However, the problems described by the Special Representative, both on the side of the Government and of the opposition, are still a reason for concern. We do hope that the cooperation of all the parties involved will make improvements possible in the near future. The Brazilian Government has been actively supporting the efforts towards the consolidation of the regional peace process and we are aware that the promotion of universally accepted standards of respect for human rights is a part of that process.

15. The report by Mr. Galindo Pohl on the human rights situation in the Islamic Republic of Iran (document E/CN.4/1989/26) suggests that there are important signs of progress in the relationship between that country and the Commission on Human Rights. The Special Representative recalls that the Government of the Islamic Republic of Iran has communicated its readiness to "seek a practical approach to the pending problems" and, under certain conditions, to extend its full cooperation to the competent organs of the United Nations. We believe that the dialogue between the Special Representative and the Iranian Government is a very positive development and we strongly encourage both to go on exploring new areas of understanding which, we hope, will bring about full cooperation in the near future.

Mr. Chairman,

16. Much has been said about the importance of

openness and transparency for the enjoyment of human rights. Among the factors which contribute to promote the enjoyment of human rights, the free flow of information from independent sources is certainly to be included among the most outstanding. Cooperation of Governments with the United Nations and with the international community in general is a means of facilitating this unimpeded flow of information.

17. In many parts of the world, the scarcity of this kind of information engenders doubts and concerns. This is the case, among others, in East Timor, to whose future we cannot remain desinterested.

Mr. Chairman,

18. The Brazilian delegation wishes to express its appreciation for the report submitted by Mr. Amos Wako on Summary or Arbitrary Executions (document E/CN.4/1989/25). The respect for the right to life is an obviously indispensable element in the promotion and protection of all human rights. The Brazilian Government has received a few communications from the Special Rapporteur last year. All allegations presented through the Special Rapporteur have been and are being carefully examined by the Brazilian authorities and we look forward to continuing the on-going dialogue with Mr. Amos Wako in order to clarify all cases under consideration. In this connection, we believe it is appropriate to underline

the clear-cut conceptual distinction drawn by the Special Rapporteur in his report between the various types of communications he receives in the exercise of his mandate. For the purposes of this Commission, it is essential to distinguish between allegations of summary or arbitrary executions stricto sensu and allegations of incidents which take place as a result of the action of groups or individuals not under Government control.